IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

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WRIT PETITION NO : 19145 of 1995

Between:

Sura Anjaiah S/O.Rajaiah
Karimnagar **..... PETITIONER**

AND

1.The Mandal Revenue Officer,

Karimnagar mandal, karimnagar
2.The Joint collector,
karimnagar dist. Karimnagar **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or writs order or direction declaring the notice issued by the first respondent purporting to be under the sections of the land Encroachment act as illegal, arbitary without jurisdiction and consequently declare that the provisions of the land encroachment Act are not applicable to the instant case.

Counsel for the Petitioner: MR.K.RAGHUVEER REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

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THE HON'BLE SRI JUSTICE BILAL NAZKI

WRIT PETITION NO.19145 OF 1995

ORDER:

Heard learned Counsel for the parties. The petitioner is aggrieved of the notice, which is purported to have been issued under Section 7 of the Land Encroachment Act, 1905 (hereinafter referred to as "the Act"). The impugned notice reads as under:

> "To
>
> Sura Anjaiah resident of Karimnagar
>
> It is learnt that you are in unauthorised occupation of the scheduled mentioned land. It belongs to Government. You are informed that as to why action should not be taken under Section 5 of Act 3 of 1905 within 24 hours. You are requested to hand over the crops, houses or structures available in the premises."

The grievance of the petitioner is that the impugned notice is not even in accordance with the mandate of Section 7 of the Act. Section 7 of the A.P. Land Encroachment Act, 1905 lays down that before any action is contemplated under Section 5 or 6, the concerned authorities shall see that show cause notice be served on the person, who is in unauthorized occupation of the land belonging to the Government, specifying the land so occupied and calling on him to show cause before a certain date why he should not be proceeded against under Section 5 or 6 of the Act. The

notice, which has been impugned in this writ petition, has stated why action should not be taken under Section 5 of the Act within 24 hours. So, as a matter of fact, the notice did not give any chance to the petitioner to show cause against an action contemplated under Section 5 of the Act. In any case, 24 hours notice was not a sufficient notice in my view. Therefore, for this reason, the impugned notice is set aside. However, if the respondents still feel that the petitioner is an encroacher within the meaning of A.P. Land Encroachment Act, 1905, they are at liberty to proceed against him in accordance with law.

Writ Petition is accordingly disposed of No costs.

(Bilal Nazki, J)

9th September, 2004

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Copy to:

1.The Mandal Revenue Officer,

Karimnagar mandal, karimnagar
2.The Joint collector,
karimnagar dist. Karimnagar

3.Two CCs to the G.P. for Revenue,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

4.Two CD copies.